

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 969 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

UNITED INDIA INSURANCE CO.LTD.

Versus

SURTI JITHRA BHIL

Appearance:

MR DARSHAN M PARIKH for Appellant
MR YN RAVANI for Respondent No.3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 29/04/97

ORAL JUDGEMENT

Heard the learned counsel for the parties.

The appellant-insurance company has challenged the order of the Motor Accident Claims Tribunal (Main), Bhavnagar passed on 10-3-1993 below Ex.4 in the Motor Accident Claim Petition No.32 of 1992.

The Ex.4 has been filed by the claimants under

sec.140 of the Motor Vehicles Act, 1988, claiming the amount as provided in the said section on the ground of no-fault liability. The impugned order was only an interim order made by the Motor Accident Claims Tribunal (Main) Bhavnagar.

Section 140 of the Motor Vehicles Act, 1988 provides for the payment of the compensation in certain cases on the principle of no-fault. The contention of the counsel for the appellant is that the vehicle which was the subject matter of the accident was not insured. However, I do not consider it to be appropriate to go on this question as the counsel for the respondent-claimant made a statement, which is not controverted by the counsel for the appellant, that the main claim petition itself has been decided and the insurance company has been held to be liable for the payment of the amount of compensation to the claimant. So the final verdict has been given by the Tribunal on this question, and as such, this plea cannot be now agitated by the appellant in this first appeal. Otherwise also, the interim order passed by the Tribunal granting the compensation on the principle of no-fault is merged in the final award, and as such, this first appeal has become infructuous. Accordingly, this first appeal is dismissed as having become infructuous.

However, the appellant is at liberty to challenge the interim order in the appeal, if any, filed against the final award and the appropriate court may consider the same on merits. No order as to costs.
